

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TOMMIE WRIGHT,

Petitioner,

v.

Case No. 04-C-1074

DAN BENIK,¹ Warden,
Stanley Correctional Institution,

Respondent.

ORDER

On November 4, 2004, the petitioner, Tommie Wright, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and § 2254. The respondent filed an answer to the petition on December 9, 2004.

On February 23, 2006, appointed counsel for the petitioner filed a No Merit Report and Motion to Withdraw as Counsel (Docket #28). The court granted counsel's motion and entered a briefing schedule. Pursuant to the briefing schedule, the petitioner was to file his brief in support of his petition for a writ of habeas corpus on or before April 24, 2006.

On June 6, 2006, the respondent filed a motion to compel and to stay the briefing schedule. By his motion the respondent moves the court for an order compelling the petitioner to inform the court and the respondent whether he intends to continue to prosecute his petition for a writ of habeas corpus. The respondent also seeks an order staying the briefing schedule in this case.

¹Pamela Wallace has replaced Daniel Benik as the warden at Stanley Correctional Institution where the petitioner is incarcerated. Thus, she is the proper respondent in this action. See Rule 2, Rules Governing Habeas Corpus Cases Under Section 2254. As a result, Warden Wallace will be substituted as the respondent in this action.

To date, the petitioner has not filed his brief. Thus, by this order, the court amends the scheduling order. Accordingly, the respondent's motion to compel and to stay the briefing schedule is denied to the extent that it seeks an order compelling the petitioner to inform the court whether he intends to prosecute this action and to the extent it seeks a stay in the briefing schedule.

Nevertheless, the court will give the petitioner additional time to file his brief. The petitioner is hereby advised that, if he fails to file a brief in support of his petition for a writ of habeas corpus on or before July 11, 2006, this action may be dismissed with prejudice for lack of diligence in prosecuting this case pursuant to Civil Local Rule 41.3 (E.D. Wis.) (copy enclosed).

NOW, THEREFORE, IT IS ORDERED that the scheduling order in this case be and hereby is amended as follows. The petitioner shall file his brief in support of his petition for a writ of habeas corpus on or before **July 11, 2006**. The respondent's brief shall be filed on or before **July 25, 2006**, and the petitioner's reply brief shall be filed by **August 8, 2006**. Failure to file such a response may result in dismissal of this action pursuant to Civil L.R. 41.3.

IT IS FURTHER ORDERED that the respondent's motion to compel and to stay the briefing schedule is **denied**. (Docket # 31).

FINALLY, IT IS ORDERED that respondent Pamela Wallace, warden at Stanley Correctional Institution, be and hereby is **substituted** in place of Daniel Benik.

Dated at Milwaukee, Wisconsin, this 13th day of June, 2006.

BY THE COURT:

s/Patricia J. Gorence

PATRICIA J. GORENCE
United States Magistrate Judge